

U.S. DEPARTMENT OF LABOR
Employment and Training Administration
Washington, D.C. 20210

REPORT ON STATE LEGISLATION

REPORT NO. 2
July 2017

ARIZONA SB 1166
(CH 15)

ENACTED March 14, 2017
EFFECTIVE September 5, 2017

Coverage

Provides that, if the department makes a determination, which determination shall be made either on the motion of the Department of Economic Security or on application of an employing unit, that an employing unit constitutes an employer as defined in section 23-613 of the Employment Security Act or that services performed for or in connection with the business of an employing unit constitute employment as defined in section 23-615 that is not exempt under section 23-617 or that remuneration for services constitutes wages as defined in section 23-622, the determination becomes final with respect to the employing unit 30 (previously, 60) days after written notice is served personally, by electronic transmission, or by certified mail if the determination was made on the basis of section 23-613.01, or by first class mail if the determination was made by any other basis, addressed to the last known address of the employing unit, unless within such time the employing unit files a written request for reconsideration.

Financing

Provides that voluntary payments in addition to the contributions required shall be included in the employer's account as of the employer's most recent computation date if they are made on or before the following February 28 (previously, January 31).

Provides that an employer against whom any delinquency assessment is made or against whom a deficiency assessment is made may petition for reassessment within 30 (previously, 15) days after written notice of the assessment is served personally or sent by certified mail to the employer's last known address. If the petition for reassessment is not filed within 30 (previously, 15) days, the amount of the assessment shall become final and the lien imposed attaches.

Overpayments

Provides that, if benefits to which a person is not entitled are received by reason of fraud committed by the person as determined by the department, the department shall assess a penalty on the person equal to 15 percent of the amount of the erroneous payment, and the person is not eligible to receive any benefits until the total amount of the overpayment and all penalties and

interest have been recovered, waived, or otherwise satisfied in compliance with a civil judgment (added, “waived”). The department shall immediately deposit all assessments paid in the unemployment compensation fund.

Provides that interest on all benefit overpayment debts, including those reduced to judgment, shall accrue at 10 percent a year. The department may waive a portion of any accrued interest on a benefit overpayment debt for good cause shown. For benefit overpayment debts classified as fraud, the amount of interest waived may not exceed 25 percent.

CONNECTICUT RULE 5078

ADOPTED and EFFECTIVE April 4, 2017

Administration

Defines “Administrator” to mean the Labor Commissioner of the State of Connecticut.

Defines “SIDES” to mean the Unemployment Insurance (UI) State Information Data Exchange System.

Provides that claimant’s statements, employer’s responses, and state Department of Labor’s notices are no longer required to be provided or submitted in written form, but instead shall be provided or submitted through a mechanism or manner prescribed or specified by the administrator.

Appeals

Provides that predetermination hearings are conducted telephonically. However, the administrator may prescribe an in-person hearing at his or her discretion, provided, if an in-person hearing is requested by either party, the request may not be unreasonably denied by the administrator. (Previously, except as provided in subsections (e) and (f), a claimant may elect to participate in a predetermination hearing by appearing in person or by telephone.) The administrator shall allow the claimant to participate solely by submitting a statement when the claimant has a compelling personal reason that prevents the claimant’s appearance in person or by telephone including, but not limited to, the claimant’s return to employment.

Provides that the notice of the predetermination hearing to the claimant shall no longer specify a time range during which the claimant should be available when telephone participation is elected. The hearing notice to the employer shall no longer specify that the employer may elect to participate in a predetermination hearing by appearing in person.

Deletes the following language: The administrator may deny a party’s request to participate by telephone in a predetermination hearing where the administrator concludes that in light of highly complex questions of fact or law or other unusual circumstances, telephone participation would significantly undermine the effectiveness of the adjudication process. The administrator shall not generally allow telephone participation in a hearing which is being conducted solely to adjudicate eligibility issues arising in conjunction with a continuing claim for benefits (e.g. availability for work, reasonable efforts to find work) and may disallow telephone participation whenever such issue is being adjudicated concurrently with a predetermination hearing.

Provides that, where no Notice of Separation is provided to the administrator, the administrator shall provide the predetermination hearing notice to the most recent address of record provided by the employer to the administrator's Employer Status Unit. The administrator shall provide the notice of the predetermination hearing either to the employer's address that appears on the Notice of Separation (Form UC-61) or, if the employer participates electronically in SIDES, to the employer's most recent electronic address.

Provides that, in order to be considered timely for purposes of Section 31-241 and Section 31-273(k) of the Connecticut General Statutes, an employer's response to the administrator's notice of a predetermination hearing or request for information on a claim for unemployment compensation benefits must be actually received by mail, in person, or by electronic means in the manner and within the time frame prescribed by the administrator in the Notice of Hearing or request for information. (Previously, or by facsimile machine (FAX) in the office of the administrator where such hearing is scheduled to be heard by the time the hearing is scheduled to commence on the scheduled hearing date. In cases where the employer elects to participate in the predetermination hearing process by telephone, such election must be communicated to the administrator no later than the close of business, two days prior to the date of said hearing along with the name, title and telephone number of the individual who will participate in the predetermination hearing on behalf of the employer.) Nothing in section 31-244-4(a) precludes consideration of a late response received before an eligibility determination is made, or subsequent to such determination in the administrator's exercise of continuous jurisdiction under section 31-243. However, such consideration shall not relieve the employer of any charges imposed pursuant to section 31-241 or 31-273(k) as a consequence of untimely response, unless good cause for such late participation is shown. For purposes of section 31-244-4(a), "good cause" means (1) agency error, or (2) circumstances beyond the employer's or its agent's control which could not have been reasonably foreseen or prevented.

INDIANA HB 1154
 (Pub. L. 177)

ENACTED April 25, 2017
EFFECTIVE July 1, 2017

Administration

Provides that the state Department of Workforce Development shall, among other things, make a presentation before November 1 of each year to the interim study committee on employment and labor (previously, to the budget committee at each meeting of the budget committee held before November 1, 2016) concerning the status of the unemployment compensation system including any other information requested by the interim study committee on employment and labor (previously, requested by the budget committee).

Deletes the language providing that the department may make the information from employer records necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an Indiana state agency.

Provides that employer specific information known as Quarterly Census of Employment and Wages (previously, as ES 202) data and data resulting from enhancements made through the business establishment list improvement project may be released to the Indiana Department of

Labor for the purpose of conducting a survey and reporting to the U.S. Department of Labor or the federal Bureau of Labor Statistics.

Provides that the department may release information obtained from any person in the administration of the Employment and Training Services Act and the records of the department relating to the unemployment tax or the payment of benefits for use by the following governmental entities:

- (A) an agency of the United States (previously, department of state revenue);
- (B) an agency of the state; (previously, state or local law enforcement agencies); or
- (C) a public official for use in the performance of the public official's duties;

only if there is an agreement that the information will be kept confidential and used for legitimate governmental purposes.

Provides that the department may make summary statistical data and employer specific information available only

(1) if:

(A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or

(B) there is an agreement that the employer specific information released (previously, released to the Indiana economic development corporation, the budget agency, or the legislative services agency) will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

(2) after the cost of making the information available to the person requesting the information is paid.

Provides that an employer that is required to be provided a notice or report is entitled to delivery of the notice or report by the U.S. Postal Service using first class mail. If an employer wants to receive notices and reports by mail, the employer shall notify the department on a form provided by the department.

Provides that employers and claimants will be provided with notices (previously, mailed notices).

Provides that, upon the filing by an individual of an additional claim for benefits, a notice shall be promptly provided to an employer from whose employ the individual claims to have been last separated. (Previously, upon the filing by an individual of an additional claim for benefits, a notice in writing or a carbon copy of such additional claim shall be mailed promptly to the base period employer or employers and to the employing unit including an employer from whose employ the individual claims to have been last separated.)

Provides that, upon the filing by an individual of an initial claim for benefits, a notice shall be promptly provided to the base period employer or base period employers and to the employing units including an employer from whose employ the individual claims to have been last separated. (Previously, upon the filing by an individual of an initial claim for benefits, a notice in writing or a carbon copy of such initial claim shall be mailed promptly to the employing unit including an employer from whose employ the individual claims to have been last separated.) The computation of the benefit rights of such individual shall be made as promptly as possible and, if such claim is deemed valid, then a notice of benefit liability shall be provided (previously, mailed) to each employer whose experience account is potentially chargeable with benefits to be paid to such individual.

Provides that, whenever a determination is made with respect to the validity of any claim for benefits, or the eligibility of any claimant for benefits, which involves the cancellation of wage credits or benefit rights, the imposition of any disqualification, period of ineligibility or penalty, or the denial thereof, a notice (previously, a notice in writing) shall promptly be provided (previously, mailed) to such claimant and to each employer directly involved or connected with the issue raised as to the validity of such claim, the eligibility of such claimant for benefits, or the imposition of a disqualification period of ineligibility or penalty, or the denial thereof.

Provides that every employer shall be provided with (previously, mailed) a monthly report of benefit charges which shall contain an itemized statement showing the names of individuals to whom benefits were paid and charged to the experience account of such employer, the weeks with respect to which each such individual received benefits, the amount thereof, and the total amount of benefits charged to such employer's said account during the period covered by such report.

Provides that, following the computation of rates of contribution for employers for each calendar year, each employer shall be provided with notice (previously, mailed a notice in writing) not later than 90 days after the effective date of such rates, setting out the employer's rate of contribution for such year, computed by the department as of the preceding June 30, together with sufficient information for such employer to determine and compute the amount of a voluntary payment required from such employer in order to qualify for and obtain a lower rate of contribution for such year and also advising such employer of the length of time within which or last date upon which said voluntary payment will be received or can be made.

Financing

Provides that the money in the special employment and training services fund is specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the U.S. Department of Labor (previously, Bureau of Employment Security). After making the required training grants, the department may expend an amount not to exceed \$5,000,000 in a state fiscal year, unless an additional amount is approved by the budget committee, except for the state fiscal year beginning July 1, 2017, and the state fiscal year beginning July 1, 2018, the \$5,000,000 maximum on expenditures by the department from the fund in a state fiscal year does not apply.

Provides that, for each state fiscal year, the Commissioner of the state Department of Workforce Development shall make the required training grants before amounts are expended from the special employment and training services fund for any other purpose.

Provides that, if on December 31 the balance in the special employment and training services fund exceeds \$8,500,000, the department shall order, not later than 30 days after December 31, payment of the amount that exceeds \$8,500,000 into the unemployment insurance benefit fund.

The following language is repealed: As used in this section, “fund” refers to the special employment and training services fund. The commissioner may allocate an amount not to exceed \$2,000,000 annually from the fund to establish reemployment training accounts to provide training and reemployment services to department employees dislocated by: (1) a reduction of funding for; (2) a centralization or decentralization of; or (3) the implementation of a more efficient technology or service delivery method in connection with, the programs and services provided under this article.

MARYLAND

HB 135
(CH 250)

ENACTED April 18, 2017
EFFECTIVE October 1, 2017

Administration

Provides that, notwithstanding any other provision of law governing methods of delivery, an individual or employer may electronically send to the Department of Labor, Licensing, and Regulation information, a report, a request, or a document, including a request for a determination, a redetermination, or an appeal.

Provides that, notwithstanding any other provision of law governing methods of delivery, the department may electronically send a determination, a redetermination, an appeals decision, a notice, or any other document provided to an individual or employer.

Requires the department to adopt regulations establishing the methods and means for electronically sending information and documents.

Appeals

Provides that an assessment of a penalty imposed by the Secretary of Labor, Licensing, and Regulation on an employing unit is final unless within 15 days after the assessment is sent (previously, unless within 15 days after the mailing of the assessment), an employing unit appeals to the Board of Appeals for a hearing.

Provides that an employer that has paid contributions or interest alleged to be due may submit an application for an adjustment or a refund and, if rejected, the Secretary shall send (previously, mail) a written notice of rejection to the employing unit. If the rejection notice is appealed, and there is a formal hearing, the Board of Appeals shall send (previously, give) a copy of the order to the employing unit.

Provides that, within 15 days after the date the notice of the determination or redetermination is sent (previously, the date of mailing of the notice or the date of delivery), a claimant or employing unit entitled to notice of a determination or redetermination of a claim may appeal to the Lower Appeals Division.

MARYLAND RULE 124092

ADOPTED March 30, 2017
EFFECTIVE April 24, 2017

Administration

Requires an employer to return the completed separation notice to the address shown on the notice or electronically.

Requires, within 48 hours after the beginning of a labor dispute, the employer to file with the Secretary of Labor, Licensing, and Regulation a list stating, among other things, the email address and telephone number of the employer's representative and the union's representative.

Monetary Entitlement

Provides that a claimant shall be eligible for partial benefits for any week in which the claimant, among other things, earned less in gross wages than the claimant's weekly benefit amount plus any dependent's allowance to which the claimant is entitled.

MARYLAND RULE 124094

ADOPTED March 30, 2017
EFFECTIVE April 24, 2017

Nonmonetary Eligibility

Requires the deduction of retirement payments from benefits if the payments are made under a plan maintained or contributed to by a base period employer (added "maintained or").

Provides that, except as otherwise provided, a lump sum retirement payment shall be deducted from benefits if the payment is made under a plan maintained or contributed to by a base period employer (previously, under a plan contributed to in whole or in part by a base period employer).

Provides that the deduction of a lump sum retirement payment from benefits shall be allocated by week, beginning with the week the claimant was separated from employment, according to the claimant's last weekly rate of pay, and the allocation extends for as long as the employer (previously, contributing employer) maintaining or contributing to the plan is a base period employer (added, "maintaining or").

MARYLAND RULE 124096

ADOPTED March 30, 2017
EFFECTIVE April 24, 2017

Appeals

Provides that, for purposes of an appeal from a claims examiner's determination, the hearing examiner shall admit the agency record, including the agency fact-finding report, into evidence at the hearing, without the need for an agency representative to appear at the hearing to authenticate or introduce it. The hearing examiner shall consider the agency record when making a final decision, giving weight to the agency fact-finding report that the hearing examiner deems appropriate.

NORTH CAROLINA

**HB 5
(CH 8)**

**ENACTED April 27, 2017
EFFECTIVE September 3, 2017,
except as indicated**

Extensions and Special Programs

Defines a Federal disaster declaration as a declaration of a major natural disaster by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, provided that the declaration allows disaster unemployment assistance under the act. (Effective October 1, 2017)

Waives the waiting week for individuals filing claims due to a federal disaster declaration. Provides that individuals unemployed directly due to a disaster have satisfied the work search requirements unless otherwise directed by the Unemployment Insurance Division. (Effective October 1, 2017)

Financing

Changes the computation date to determine if the Unemployment Insurance Reserve Fund Surtax will be suspended from August 1 to September 1 of the preceding calendar year. (Effective July 1, 2017)

Changes the deadline for an employer to appeal a claim against the employer's account from 14 to 10 days from the date of mailing or delivery of the notice of claim filing. (Effective October 1, 2017)

Provides that a reimbursing employer may apply for a refund for amounts erroneously paid if the application is filed the later of 5 years from the last day of the calendar year with respect to which a payment was made or 1 year from the date on which such payment was made. The refund must not include interest or result in an account balance of less than 1.0 percent of the employer's taxable wages.

Prohibits the transfer of an account if the division finds that a person formed or acquired the business solely or primarily for the purpose of obtaining a lower contribution rate. (Effective July 1, 2017)

Requires an employer who acquires a business to use an existing account for transfer of the business. If the division finds that a new account was established, the annual tax rates must be recalculated based on the combined annual account balances of the new employer and the existing business. (Effective July 1, 2017)

Nonmonetary Eligibility

Provides that amounts paid to an individual for paid time off that was available, but unused, before the individual's separation, under a written policy in effect before the job separation, are not considered remuneration as a result of separation and do not affect the individual's unemployed status. (Effective July 1, 2017)

PENNSYLVANIA SB 250 ENACTED and EFFECTIVE April 24, 2017
(Act No. 1)

Administration

Provides that, before closing an unemployment compensation service center, the state Department of Labor and Industry shall submit a report to the chairperson and minority chairperson of the Labor and Industry Committee of the Senate and the chairperson and minority chairperson of the Labor and Industry Committee of the House of Representatives. The report shall include the performance data and operating costs of the unemployment compensation service center as compared to other unemployment compensation service centers in this Commonwealth.

Financing

Extends the year of the Service and Infrastructure Improvement Fund from 2016 through 2017. For calendar year 2017, the fund amount determined may not exceed \$15 million. During calendar year 2017, the following shall apply to funding transferred to the Service and Infrastructure Improvement Fund and related matters regarding the fund:

(1) The department shall temporarily improve the operations of the unemployment compensation system pending the General Assembly's review of the information required by section 301.9(h) and (i) of the Pennsylvania Unemployment Compensation Law and a special performance audit conducted by the Auditor General. Funding under this clause shall be allocated as follows:

(i) \$10.8 million shall be allocated for personnel costs related to claims processing and service to claimants.

(ii) \$2.3 million shall be allocated for personnel costs related to tax services.

(iii) \$1.4 million shall be allocated for personnel costs related to appeals under Article V.

(iv) \$500,000 may be allocated for the purposes authorized under subclauses (i), (ii), and (iii) or for personnel costs related to program integrity and the detection and prevention of overpayments to claimants.

(2) Funding shall be expended in a manner that will result in the operations of the unemployment compensation system remaining at consistent levels for at least 9 calendar months following the effective date of this clause.

(3) The department shall maintain a separate accounting for the Service and Infrastructure Improvement Fund. The secretary shall provide a report to the chair of the Labor and Industry Committee of the Senate and the chair of the Labor and Industry Committee of the House of Representatives before the fifteenth day of each month during the period specified in clause (2). The report shall include all of the following:

(i) An accounting of the Service and Infrastructure Improvement Fund for the prior calendar month.

(ii) An update on operations of the unemployment compensation system.

(iii) An accounting of total funds spent on the administration of the unemployment compensation system for the prior calendar month.

(iv) An update on the progress of the procurement of technological upgrades to the delivery system for unemployment compensation benefits.

Provides that any moneys in the Service and Infrastructure Improvement Fund that are not expended or obligated as of December 31, 2019 (previously, 2018), shall be transferred to the Unemployment Compensation Fund.

Provides that no later than June 30 of each calendar year from 2014 through 2020 (previously, 2019), the department shall provide a report to the Governor and the General Assembly, through the Secretary-Parliamentarian of the Senate and the Chief Clerk of the House of Representatives, regarding the Service and Infrastructure Improvement Fund, which report shall include an accounting for the contributions deposited into the fund, the expenditures and transfers from the fund during the prior year, and a description of the purposes for which expenditures from the fund were made in the prior year.

Provides that, no later than June 15, 2017, the department shall submit a report to the chairperson and minority chairperson of the Labor and Industry Committee of the Senate and the chairperson and minority chairperson of the Labor and Industry Committee of the House of Representatives describing the department's plan to eliminate the department's reliance on moneys transferred into the Service and Infrastructure Improvement Fund for recurring operational costs. The General Assembly shall consider the information contained in the report when reviewing a supplemental funding request by the department for calendar years beginning after 2017.

Provides that it is the intention of the General Assembly to separately review a supplemental funding request by the department for technological upgrades to the delivery system for unemployment compensation benefits. The request shall be submitted with the required report and shall include all of the following:

(1) A detailed description of the technological upgrades to the delivery system for unemployment compensation benefits.

(2) An explanation of the improvements to the unemployment compensation benefits delivery system that will result from the technological upgrades.

(3) The total estimated cost of the technological upgrades to the delivery system for unemployment compensation benefits, including the total estimated cost each year and any additional funding sources that can be used for the project.

(4) The total estimated cost savings that will result from the technological upgrades to the delivery system for unemployment compensation benefits.

(5) The time period, as specified in years, that will be necessary for the department to complete the technological upgrades to the delivery system for unemployment compensation benefits.

(6) Information on a proposal received or contract executed for technological upgrades to the delivery system for unemployment compensation benefits if publicly accessible under the act of February 14, 2008 (P.L. 6, No. 3), known as the Right-to-Know Law.

(7) A detailed description of how the technological upgrades to the delivery system for unemployment compensation benefits will impact any related recommendations in a special performance audit conducted by the Auditor General.

TEXAS HB 1432
 (CH 210)

ENACTED and EFFECTIVE May 28, 2017

Financing

Adds section 213.012 to the Unemployment Compensation Act entitled Restrictions or Conditions on Payments Prohibited. In this section, “payment instrument” has the meaning assigned by Section 151.301, Finance Code. A person may not place on a payment instrument remitted to the Texas Workforce Commission any restriction or condition purporting to limit the amount of contributions, penalties, or interest owed to the commission by an employer. A restriction or condition in violation of this section is void.